

# Pacific Standard

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## THESE DEMOCRATS ARE TRYING TO SABOTAGE THE ENDANGERED SPECIES ACT

It's not a good look.

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The Endangered Species Act is a success, it's true, but that's an understatement. Better to say that the ESA is a visionary and well-wrought law that has saved countless thousands of animals from annihilation. President Donald Trump, in an alternate universe, might call its accomplishments tremendous.

Imagine Florida without the American alligator or coastal California without the brown pelican.

Think of Yellowstone without the gray wolf or Glacier National Park without the grizzly bear.

Picture our skies without bald eagles and our oceans without humpback whales.

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That's the dreary world we were heading toward before the ESA arrived on the scene. The Act is about preventing extinction and that is just what it has done. Ninety-nine percent of all species that have been listed under the law—including the ones named above—are still with us today.

The ESA works and that's why, when you hear industry-backed lobbyists and politicians say as they did in a February Senate hearing that the law itself is flawed and must therefore be "reformed" or "modernized," you should take their claims with a strong dose of skepticism. In contemporary Capitol Hill talk, words like modernization and reform are a sure sign that organized special interests are mounting an attack on the public trust.

That's all to say: The ESA is exemplary, but it would be *even more* exemplary if political actors weren't constantly undermining it. Anti-conservation Republicans, as I have written before, are its main opponents. Flush with campaign funds from fossil fuel, mining, and agricultural pressure groups, among others, they aim to gut the law like a trout. But the GOP doesn't have a monopoly on ESA meddling. Democrats are in on the act too.

At this very moment, Congress has before it a pair of bills, one in the House of Representatives and one in the Senate, that seek to remove ESA protections from gray wolf populations in multiple states, and especially the western Great Lakes region. If the bills become law, they would not only override the ESA. They would also *preclude* judicial review. American citizens, in effect, would no longer be allowed to access civil courts and challenge federal or state wolf management policies in places like Minnesota, Michigan, and more.

“These bills threaten long-term wolf recovery with bad state management plans and a lack of democracy for citizens,” says Melissa Smith, a Great Lakes field representative for the Endangered Species Coalition. “They represent the interests of a vocal minority, including Big Agriculture, the National Rifle Association, and the trophy hunting communities.”

These proposals have crucial support from prominent liberal politicians. Democratic Senators Amy Klobuchar of Minnesota and Tammy Baldwin of Wisconsin are co-sponsoring the Senate bill. A more conservative Democrat, meanwhile, Representative Collin Peterson of Minnesota, introduced the House version.

Democratic backing for such legislation is more than disappointing. It’s deeply misguided. Here’s why:

1. These bills are corrosive to the ESA’s integrity.

The United States Fish and Wildlife Service, which is charged with implementing the ESA using the best available science, has for years tried to remove federal protections for gray wolves in the Great Lakes region. The agency’s delisting attempts, however, have led in all cases to embarrassing defeat in the federal courts.

This legal drama came to a head in 2014, when a district court in Washington, D.C., ruled that the agency’s 2012 decision to remove gray wolves in the Upper Midwest from the ESA violated the law. The court immediately reinstated federal protection for the wolves, writing in its lengthy ruling that the ESA “reflects the commitment by the U.S. to act as a responsible steward for the Earth’s wildlife, even when such stewardship is inconvenient or difficult for the localities where an endangered or threatened species resides.”

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The Fish and Wildlife Service challenged the decision at the appellate level, where it is currently being reviewed.

The courts, then, are in the midst of using *the law* to determine whether gray wolves in the Great Lakes deserve protection or are ready to be delisted. This is the proper venue for deciding the species fate because it relies on the ESA’s own science-centric language to guide the hand of decision-makers.

The wolf bills in Congress, on the other hand, are arbitrary. They do not have any guiding scientific justification. They are purely political. As such, they undermine the integrity of the ESA. If endangered or threatened species are subject to sudden delisting by political actors, what good is the law? If politicians can override its mandates on a whim, is the ESA worth anything at all?

The wolf-delisting Democrats would be wise to think long and hard about such questions, especially given the anti-science and conservation-averse attitude that’s so prevalent in Congress these days. Which leads me to my second point.

2. These bills bolster GOP efforts to weaken or eliminate the ESA outright.

A cockfight is coming in Congress over the ESA. Rob Bishop, chairman of the House Committee on Natural Resources, has clucked recently that he intends to “repeal it and replace it.”

Late last month, Bishop's committee took an initial jab at the ESA during a hearing about the law's alleged detrimental impact on the economy. In a press release issued after the august hearing, the American people learned that the ESA has "jeopardized human health and safety, harmed small businesses and, in many cases, further imperiled species."

As anti-conservation Republicans stir up opposition to the law, Baldwin, Klobuchar, and Peterson are playing right into their hands. These Democrats, with their track record of legislative monkey wrenching, will have little moral ground on which to stand when the Republicans attempt to dismantle our country's preeminent wildlife law.

### 3. In an era of ruthless executive action, the bills restrict access to the courts.

Perhaps the most repellant aspect of the wolf delisting bills is their crackdown on court access. Both bills contain provisions that explicitly prohibit judicial review. Put simply, they prohibit Americans from accessing the civil courts to challenge the removal of federal protections for targeted wolf populations. In this era of ruthless executive action, when far-right factions dominate the federal government and courts are one of the few remaining venues to challenge their power, it's jaw-dropping to watch Democrats restrict access to the judicial branch. Congress has the right to do so, of course, but it's a shortsighted and dangerous precedent to promote in this perilous time.

Peterson, in a written statement, stands by his bill, calling it "practical, bipartisan legislation that balances safety with gray wolf management."

Though neither Baldwin nor Klobuchar responded to multiple requests for comment, Baldwin shared her views on wolf delisting in an op-ed last November.

"I am proud to support the Endangered Species Act, which has protected iconic species and wildlife for the benefit of future generations," she wrote. "Because of the good work done by so many in bringing back the wolf population, I am also proud to support its delisting."

Those are some virtuous words about the ESA's enduring importance. The *actions* of Baldwin and her Congressional colleagues, however, are much more meaningful and not nearly so wholesome.